



**Town of Uxbridge
Zoning Board of Appeals
21 So. Main St.
Uxbridge, MA 01569
(508) 278-8603**

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Minutes of the **March 7, 2007** at 7:00 P.M. in the Board of Selectmen's Meeting Rm., Uxbridge Town Hall, 21 So. Main St., Uxbridge, MA:

Member(s) Present: Chairman **Ernie Esposito, Carol Masiello, and Mark Wickstrom**

Associate Member(s) Present: **None**

Member(s) Absent: **John Higgins**

The meeting being duly called, properly posted and a quorum being present, Chairman Esposito convened the meeting at 7:00 P.M.

Chairman Esposito explained to the assembled that the Board was going to open the Public Hearings on each case, take testimony, close the Public Hearings on each (as appropriate), and deliberate after all the cases have been heard.

PUBLIC HEARING(S) NEW

FY07-24: The applicants / owners of record, Northwind Partners MA, LLC, are seeking, in Residence C and Agricultural Zones, a Special Permit for Use in accordance with the Town of Uxbridge Zoning By-law S. XX Age Restricted Development Overlay District, s.s. B. Permitted Uses and s.s. N. Criteria for Review, on a lot located at Taft Hill Ln., Uxbridge, MA, shown on the Town of Uxbridge Assessor's Map 23, Parcel 4435, and recorded in the Worcester County District Registry of Deeds Bk. 34880, Pg. 294, in order to construct a 130-unit condominium development. Chairman Esposito opened the Public Hearing on this case. Chairman Esposito explained to the applicant, their representatives and the Board members that he was just made aware of the fact that Mark Wickstrom needed to recuse himself from this case owing to a conflict of interest and that Alternate Member John Higgins was not present. As such, **Chairman Esposito** made a motion, seconded by **Carol Masiello**, to continue the Public Hearing on this case to **04/04/07**. The vote was **2-0-0 in favor** of the motion. (**Action: Cont. PH to 04/04/07**)

PUBLIC HEARING(S) CONTINUED

FY07-20: The applicant, Steven Flagg, is seeking, in the Business Zone, a Class 1 License to sell new motor homes, trailers and RVs, seven (7) days a week from 9:00 A.M. to 8 P.M. on a property located at A. 30 Monahan Dr. and B. 164 Providence St., Uxbridge, MA, shown on the Town of Uxbridge Assessor's Map 51, A. Parcel 2755 and B. Parcels 2841, 2768 and 2881, and recorded in the Worcester County District Registry of Deeds (A.) Bk. 06471, Pg. 349 and (B.) Bk. 17166 Pg. 274. The owner of record is David Besette. Atty. Timothy Gilmore represented the applicant who was present. Atty. Gilmore explained to the Board members that he had taken a look at the By-laws and wanted to frame the discussion around a

Class I License to sell RVs and that other issues associated with the business were under the purview of the Planning Board. Atty. Gilmore expressed the desire of his client to get a feel for whether or not the ZBA would grant the Special Permit so that he could then move on to the Planning Board to address any of their issues. Chairman Esposito indicated that he wants more information; Carol Masiello voiced agreement; and Mark Wickstrom suggested that the request of the Zoning Board be addressed in a two-step process: A. a finding of similar use in the Business Zone (under Sec. VII D.) and B. a Special Permit for a Class I License. Atty. Gilmore indicated that his client could submit all sorts of engineering plans and the ZBA could still say no to his client selling RVs at this location and asked that the Board members give him / his client a sense that they would find this use to be of similar use. Carol Masiello indicated that she thought it might be an error to make a finding of similar use particularly with traffic from the site exiting onto Providence St., a residential neighborhood surrounded by agricultural properties and indicated she wanted to see the paper road. Atty. Gilmore indicated that there would be no huge amount of traffic generated by the site, that it would be something on the order of 20-30 trips per day, and further that there would be only limited repairs on site. Ms. Masiello asked if the RVs would be entering the site from Providence St. and Mr. Flagg answered in the affirmative. Mr. Wickstrom reaffirmed his opinion that this should be a two-part process and Ms. Masiello indicated that she concurred with his opinion. Mr. Wickstrom went on to say that the first action should be making a determination of similar use in the Business Zone under Sec. VII D and then considering whether or not such a business would be injurious or offensive to the neighborhood. Mr. Wickstrom and Ms. Masiello postured that they would need to see plans before they could make the second consideration. Atty. Gilmore pushed for some clear indicator from the Board that it would be in favor of a similar use finding for his client. In an informal, non-binding poll, each of the Board members indicated that they would be in favor of making a finding of similar use under Sec. VII D. **Carol Masiello** made a motion, seconded by **Mark Wickstrom**, to continue the Public Hearing on this case to 04/04/07. The vote was **3-0-0 in favor** of the motion. **(Action: Cont. PH to 04/04/07)**

PUBLIC HEARING(S) NEW

FY07-22: The applicants / owners of record, Patrick & Christine Bonaventura, are seeking, in the Residence A Zone, an Area Variance of 4,325 sq. ft. from the 20,000 sq. ft. Area requirement and a Frontage Variance of 30 ft. from the 125 ft. Frontage requirement, on a lot located at 79 Cross St., Uxbridge, MA, shown on the Town of Uxbridge Assessor's Map 19, Parcel 2675, and recorded in the Worcester County District Registry of Deeds Bk. 32786, Pg. 1, in order to construct a 2nd floor 7 ft. x 22 ft. section to the rear of the existing home. Chairman Esposito opened the Public Hearing on this case. The applicants were present and Mr. Bonaventura explained to the Board members that they wanted to take a 7 ft. x 22 ft. closet and raise the pitch of the roof over the closet on the rear of the house. No abutters were present. Carol Masiello asked Mr. Bonaventura if the work on this project had already been begun and he responded in the affirmative and explained that they inadvertently neglected to seek a Building Permit and that the Building Inspector visited the site and asked his workers to stop work until they had a proper Building Permit to perform the work. Ms. Masiello asked if there would be any expansion of use to which Mr. Bonaventura replied that there would be none. **Mark Wickstrom** made a motion, seconded by **Carol Masiello**, to close the Public Hearing on this case. The vote was **3-0-0 in favor** of the motion.

FY07-23: The applicants / owners of record, Michael & Erin Morvan, are seeking, in the Residence C Zone, a Special Permit for Use in accordance with the Town of Uxbridge Zoning By-law S. VII Permitted Uses in Various Zones, s.s. C. Residence C, 6.E., on a lot

located at 76 Sutton St., Uxbridge, MA, shown on the Town of Uxbridge Assessor's Map 11, Parcel 3058, and recorded in the Worcester County District Registry of Deeds Bk. 28031, Pg. 114, in order to house 12 or less chickens in a 10 ft. x 12 ft. chicken coop to the rear of the existing home. Chairman Esposito opened the Public Hearing on this case. The applicants were present. Mr. Morvan explained to the Board members that he and his wife wanted to have a small flock of chickens to harvest eggs and to serve as pets to their children. Mark Wickstrom expressed concern over the need for a rooster and the applicants assured him that they did not plan to acquire any roosters. One abutter, a Mrs. Ames, approached the applicants in advance of the Public Hearing to tell them that she wanted assurance that the number of chickens referenced in the application (12) be specified in the Special Permit. Carol Masiello verified with the applicants that the coop will meet all setback requirements, that the coop will not exceed 10 ft. x 12 ft., and reminded them that they would need to seek a permit from the Board of Health. Mark Wickstrom queried the applicant regarding the disposition of waste and Mrs. Morvan responded that the waste would serve as garden compost. Chairman Esposito declared the Public Hearing on this case closed.

CONTINUED / NEW / OTHER BUSINESS

FY07-22: Deliberation: Mark Wickstrom made a motion, seconded by Carol Masiello, to convert the application from a Request for Variances to a Request for a Finding under MGL C. 40A, Sec. 6. The vote was **3-0-0 in favor** of the motion. Mark Wickstrom made a motion, seconded by Carol Masiello, to make a **FINDING** under MGL C. 40A S. 6 that the proposed alteration (construction of a 2nd floor 7 ft. x 22 ft. section to the rear of the existing home) is not substantially more detrimental than the existing non-conformity. The vote was **3-0-0 in favor** of the motion. Mark Wickstrom made a motion, seconded by Carol Masiello, that the Board direct the Building Inspector to issue a Building Permit to the applicant. The vote was **3-0-0 in favor** of the motion. (**Action: Finding Granted**)

FY07-23: Deliberation: Mark Wickstrom made a motion, seconded by Carol Masiello, to grant a **SPECIAL PERMIT FOR USE** in accordance with the Town of Uxbridge Zoning By-law S. VII (Permitted Uses in Various Zones), s.s. C. (Residence C), 6.E., in order to allow the housing of twelve (12) or less chickens in a 10 ft. x 12 ft. chicken coop to the rear of the existing home at the above location, with the following conditions:

1. There shall be no more than twelve (12) chickens at any point in time and if the applicants are found in violation of this condition, the operation shall be shut down;
2. There shall be no roosters at this location;
3. The coop shall be no larger than 10 ft. x 12 ft. and shall meet all required setbacks of the Residence C Zone;
4. Said operation shall not be in violation of the Board of Health Rules and Regulations or any other state laws or regulations.

The vote was **3-0-0 in favor** of the motion. (**Action: Special Permit Granted**)

Brief Continued Discussion of Changes to the ZBA Process and Procedures: The Board members discussed holding a special meeting on the third Wednesday in April (04/18/07) with two items on the agenda, a new Public Hearing re: proposed changes to the ZBA Rules and

Regulations and a discussion on a proposed change to the Zoning By-laws re: pre-existing, non-conforming issues.

Vote to Accept and Endorse 02/07/07 ZBA Meeting Minutes: The Board members made recommendations on two amendments to the 02/07/07 ZBA Meeting Minutes: 1. In Case FY07-20, the Board asked that the following sentence be added: "According to Atty. Gilmore, the applicant will be taking trade-ins (used RVs) and will be able to sell those trade-ins under the definition of MGL Class I License." and 2. In Case FY07-19's Deliberation, 2nd sentence to begin "Discussion **ensued** amongst..." **Carol Masiello** made a motion, seconded by **Mark Wickstrom**, to approve as amended and endorse the 02/07/07 ZBA Meeting Minutes. The vote was **3-0-0 in favor** of the motion.

Adjournment: **Mark Wickstrom** made a motion, seconded by **Carol Masiello**, to adjourn. The vote was **3-0-0 in favor** of the motion. The meeting adjourned at 7:50 P.M.

Approved by the Town of Uxbridge Zoning Board of Appeals:

Ernie Esposito, Chairman

Carol Masiello, Member

Mark Wickstrom, Member